

106TH CONGRESS
2D SESSION

H. R. 5469

To provide for review in the Court of International Trade of certain determinations of binational panels under the North American Free Trade Agreement.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2000

Mr. NORWOOD (for himself, Mr. CHAMBLISS, Mr. GOODE, Mr. BISHOP, Mr. WICKER, Mr. VELAZQUEZ, Mr. PICKERING, Mr. COBLE, and Mr. GRAHAM) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide for review in the Court of International Trade of certain determinations of binational panels under the North American Free Trade Agreement.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Integrity of the United
5 States Courts Act of 2000”.

1 **SEC. 2. JUDICIAL REVIEW OF BINATIONAL PANEL DECISIONS.**
2

3 (a) IN GENERAL.—Subtitle A of title IV of the North
4 American Free Trade Agreement Implementation Act (19
5 U.S.C. 3431 et seq.) is amended by inserting after section
6 404 the following new section:

7 **“SEC. 404A. REVIEW OF BINATIONAL PANEL DETERMINATIONS.**
8

9 “(a) BASIS FOR REVIEW IN COURT OF INTERNATIONAL TRADE.—If, within 30 days after publication
10 in the Federal Register of notice that a binational panel
11 has issued a determination following a review under article
12 1904 of a decision of a competent investigating authority
13 in the United States, a party or person within the meaning
14 of paragraph 5 of article 1904 alleges that—

16 “(1)(A) a member of a panel was guilty of a
17 gross misconduct, bias, or a serious conflict of interest,
18 or otherwise materially violated the rules of conduct,
19

20 “(B) the panel seriously departed from a fundamental rule of procedure, or
21

22 “(C) the panel manifestly exceeded its powers,
23 authority, or jurisdiction set out in article 1904, as
24 in failing to apply the appropriate standard of review, and
25

1 “(2) any of the actions described in paragraph
2 (1) has materially affected the panel’s decision and
3 threatens the integrity of the binational panel review
4 process,

5 then such party or person may file an appeal with the
6 United States Court of International Trade, seeking re-
7 view of the binational panel determination, pursuant to
8 section 516A of the Tariff Act of 1930.

9 “(b) DECISIONS OF THE COURT.—In any appeal filed
10 under subsection (a) for review of a binational panel deter-
11 mination, the Court of International Trade shall, after ex-
12 amining the legal and factual analysis underlying the find-
13 ings and conclusions of the panel’s decision, determine
14 whether any of the actions described in subsection (a)(1)
15 has been established. If the court finds that any of those
16 actions has been established, the court shall vacate the
17 original panel decision and enter judgment accordingly. If
18 the actions are not established, the court shall affirm the
19 original binational panel decision. Decisions of the Court
20 of International Trade under this section shall be binding
21 on the parties with respect to the matters between the par-
22 ties that were before the panel.

23 “(c) EXCLUSIVE JURISDICTION.—If a party or per-
24 son within the meaning of paragraph 5 of article 1904
25 timely files a notice of appeal to the Court of International

1 Trade pursuant to this section, then jurisdiction exclu-
 2 sively resides with the United States Court of Inter-
 3 national Trade, and such determinations are not subject
 4 to review by an extraordinary challenge committee under
 5 paragraph 13 of article 1904.

6 “(d) APPLICABILITY.—This section applies to all
 7 goods from NAFTA countries which were subject to an
 8 antidumping duty or countervailing duty determination of
 9 a competent investigating authority in the United
 10 States.”.

11 (b) CONFORMING AMENDMENT.—The table of con-
 12 tents of the North American Free Trade Implementation
 13 Act is amended by inserting after the item relating to sec-
 14 tion 404 the following:

“Sec. 404A. Review of binational panel determinations.”.

15 **SEC. 3. JURISDICTION OF THE COURT OF INTERNATIONAL**
 16 **TRADE.**

17 Section 516A of the Tariff Act of 1930 (19 U.S.C.
 18 1516a) is amended—

19 (1) in subsection (a)(2)—

20 (A) in subparagraph (A)(i)(I), by striking

21 “or (viii)” and inserting “(viii), or (ix)”; and

22 (B) in subparagraph (B), by adding at the

23 end the following:

1 “(ix) A final determination of a bina-
2 tional panel convened pursuant to article
3 1904 of the NAFTA.”;

4 (2) in subsection (a)(5), in the matter pre-
5 ceding subparagraph (A), by inserting “(other than
6 a determination described in subsection
7 (g)(3)(A)(vii))” after “apply”; and

8 (3) in subsection (g)(3)(A)—

9 (A) in clause (v), by striking “or” at the
10 end;

11 (B) in clause (vi), by striking the period
12 and inserting “, or”; and

13 (C) by adding at the end the following:

14 “(vii) a determination which either a
15 party or person within the meaning of
16 paragraph 5 of article 1904 of the NAFTA
17 has requested review pursuant to section
18 404A of the North American Free Trade
19 Agreement Implementation Act.”.

20 **SEC. 4. EFFECTIVE DATE.**

21 The amendments made by this Act shall apply to any
22 final determination of a binational panel convened pursu-
23 ant to article 1904 of the North American Free Trade

- 1 Agreement, notice of which is published in the Federal
- 2 Register on or after the date of the enactment of this Act.

